

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

NO. C-04-109-04-SC01

AMERICA'S MORTGAGE SUPERSTORE,
INC., and PAYTON STORY, PRESIDENT,
JOHN O. HOPKINS, EXECUTIVE VICE
PRESIDENT, and DENISE STORY,
SECRETARY

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE CONSUMER LOAN
LICENSE

Respondents.

INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to RCW 31.04.145, and based upon the facts available as of May 26, 2004 the Director institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents:

A. **America's Mortgage Superstore, Inc.** (Respondent Superstore) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer Loan Company on February 5, 2001, and has continued to be licensed to date.

B. **Payton Story** (Respondent P. Story) is President of Respondent Superstore.

C. **Denise Story** (Respondent D. Story) is Secretary and 100% owner of Respondent Superstore.

D. **John O. Hopkins** (Respondent Hopkins) is Executive Vice President of Respondent Superstore.

1.2 Licensed Location: Respondent Superstore is licensed to conduct the business of a Consumer Loan Company

at:

2500 Redhill Ave. Ste 200
Santa Ana, CA 92705

1.3 Records Location: Respondent Superstore has received approval from the Department to maintain the records relating to its Consumer Loan license at the following location outside the State of Washington:

2500 Redhill Ave. Ste 200
Santa Ana, CA 92705

1.4 Registered Agent: The Registered Agent for Respondent Superstore is listed in the application as:

Corporation Service Company
1010 Union Avenue south East
Olympia, WA 98501

1.5 Annual Report: An annual report is due to the Department on or before the first day of March of each year, concerning the business and operations of each licensed place of business conducted during the preceding calendar year. The annual report must be made under oath and must be in the form prescribed by the Director.

To date, Respondents have not provided the annual reports relating to the following calendar years: 2001, 2002, 2003 and 2004, due beginning March 1, 2002.

1.6 Annual Assessment: A calculation worksheet and an annual assessment fee are due to the Department on or before the first day of March of each year, relating to the previous calendar year. To date, Respondents have not provided the calculation worksheets or paid the annual assessment fees for the following calendar years: 2001, 2002, 2003, and 2004, due beginning March 1, 2002.

1.7 Surety Bond: Capital Indemnity Corporation notified the Department on January 14, 2003, that Respondent Superstore's surety bond would be cancelled effective March 6, 2003. To date, Respondents have not provided a reinstatement of the cancelled surety bond, or a replacement surety bond or approved alternative.

1.8 Change in Address: Mail from the Department addressed to Respondent Superstore's licensed location has been returned marked "Return to Sender." To date, Respondent Superstore has not notified the Department in writing of a change in the location of its place of business or obtained the Department's approval for a change in the location of its place of business.

1.9 Issuance of Demand : A letter was sent to Respondent Superstore In January 2002 to require filing of the Annual Report and Assessment Worksheet due on December 31, 2001, with a statutory reference of the requirement. The filing was never made. On January 14, 2002, the Department sent Respondent Superstore a letter to demand that it post a surety bond with a minimum of \$400,000 coverage with proof of compliance by January 30, 2002. The Respondent later posted a bond for \$100,000. On July 8, 2002, the Department sent a certified letter to Respondent's official place of business to indicate that the company had not filed its Consolidated Annual Report and annual Assessment Worksheet for the year ended December 31, 2001 and had not secured a \$400,000 surety bond as required by law. The letter was returned unopened marked "Return to Sender". On January 22, 2004, and March 1, 2004, the Department sent a notice and directive by certified mail to Respondent P. Story, Respondent D. Story, and Respondent Hopkins demanding payment of the assessments due for 2001, 2002, and 2003, and demanding the replacement bond. Successful service was made upon Respondent P. Story and Respondent D. Story.

1.10 On-Going Investigation: The Department's investigation into the alleged violations of the Act by Respondents continues to date.

II. GROUNDS FOR ENTRY OF ORDER

2.1 Requirement to File Annual Report: Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.04.155 and WAC 208-620-220(1) for failing to provide annual reports to the Director, under oath and in the form prescribed by the Director, on or before the first day of March, concerning the business and operations of each licensed place of business conducted during the preceding calendar year.

2.2 Requirement to Calculate and Pay Annual Assessment: Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.04.085, WAC 208-620-190(3) and WAC 208-620-220(1) for failing to provide to the Director a completed annual assessment calculation worksheets and failing to pay to the Director annual assessment fees on or before the first day of March, relating to the previous calendar year.

2.3 Requirement to Maintain Surety Bond: Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.04.045(3), RCW 31.04.085, and WAC 208-620-030(1) for failing to file and maintain a surety bond or approved alternative with the Director.

2.4 Authority to Charge Examination and Investigation Fees: Pursuant to RCW 31.04.145(3), WAC 208-620-180(1), WAC 208-620-190(2) and WAC 208-620-191, every licensee examined or investigated by the Director or the Director's designee shall pay for the cost of the examination or investigation, calculated at the rate of sixty-six dollars and eighty-one cents (\$66.81) per staff hour for time incurred from July 1, 2001 through June 30, 2002, and sixty-nine dollars and one cent (\$69.01) per staff hour for time incurred after June 30, 2002.

2.5 Requirement to Notify Director of Change in Address: Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.04.075 and WAC 208-620-200 for changing its place of business from the street address designated in the license without notifying the Director in writing and without obtaining the Director's prior approval.

2.6 Authority to Revoke License: Pursuant to RCW 31.04.093(3)(a) and (b), the Director may revoke a license if a licensee fails to pay any fee due the state of Washington, fails to maintain in effect the required bond or permitted substitute, or fails to comply with any specific order or demand of the Director, or violates any provision of the Act or any rule adopted under the Act.

2.7 Authority to Issue Orders Directing Action: Pursuant to RCW 31.04.093(5)(b), the Director may issue an order directing a licensee to take such affirmative action as is necessary to comply with the Act.

2.8 Accounting Requirements: Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.04.155 for failing to make accurate and current books and records readily available to the Department until at least twenty-five months have elapsed following the effective period to which the books and records relate.

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2 **III. NOTICE OF INTENTION TO ENTER ORDER**

3 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set forth in
4 the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under
5 RCW 31.04.093, RCW 31.04.165 and RCW 31.04.205. Therefore, it is the Director's intention to ORDER that:

- 6 3.1 Respondent America's Mortgage Superstore's license to conduct the business of a Consumer Loan
Company be revoked; and
- 7 3.2 Respondents maintain records in compliance with the Act and provide the Director with the location of
8 the books, records and other information relating to Respondent America's Mortgage Superstore's
9 consumer loan business, and the name, address and telephone number of the individual responsible for
maintenance of such records in compliance with the Act.

10 **IV. AUTHORITY AND PROCEDURE**

11 This Statement of Charges and Notice of Intention to Enter an Order to Revoke Consumer Loan License is
12 entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202 and RCW 31.04.205,
13 and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondents may
14 make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND
OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

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16 Dated this 3rd day of June, 2004.

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18 /s
CHUCK CROSS
19 Director and Enforcement Chief
Division of Consumer Services
20 Department of Financial Institutions

21 Presented by:

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23 Deborah Bortner
Financial Legal Examiner

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